

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.: 5550
)	
Satomi MIYATA et al)	Art Unit: 1614
)	
I.A. Filing Date: 10/04/2003)	Examiner: Joseph S. Kudla
371(c) Date: April 7, 2006)	
)	April 4, 2008
I. A. No.: PCT/JP2004/014591)	
U.S. Appln. No.: 10/574,934)	ATTY.'S DOCKET: MIYATA=6
)	
For: AGENT FOR ENHANCING THE)	
PRODUCTION OF COLLAGEN...)	

REPLY TO REQUIREMENTS FOR RESTRICTION
REQUIREMENT AND ELECTION OF SPECIES

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop: Amendment
Randolph Building, 401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants are in receipt of the Office Action
mailed March 4, 2008, and applicants reply below.

First, however, applicants respectfully request the
PTO to acknowledge receipt of applicants' papers filed under
Section 119.

Restriction has been required among what the PTO
deems as being five (5) patentably distinct inventions. As
applicants must make an election even though the requirement
is traversed, applicants hereby respectfully and provisionally

elect Group V, presently said to comprise only claims 17-19, with partial traverse and without prejudice.

Applicants accept the requirement as regards claim 16, but not as regards the other claims. The examiner says that there is no special technical feature, but applicants do not see that this is correct. Applicants submit that the common technical feature is the enhancement of collagen production by the combination of L-ascorbic acid (and/or derivative) with a fatty acid (or derivative). Insofar as is known, there is no reason why it would be considered that such subject matter does not constitute a special technical feature.

Applicants believe, and respectfully submit, that the requirements for unity of invention as among Groups I-III and V are met, and that the requirement should be withdrawn, except for Group IV, claim 16. Such is respectfully requested.

The examiner has also required an election of a single species of fatty acids or derivatives to which the claims would be restricted if no generic claim were to eventually be held to be allowable. Again, as applicants must make an election even though the requirement is traversed, applicants hereby respectfully and provisionally elect 10-hydroxy-2-decenoic acid as the elected species, with traverse

and without prejudice. The claims which read on this species are claims 1-15 and 17-19.

Applicants respectfully traverse the requirement on the basis of the second paragraph of MPEP 803. In this regard, applicants respectfully note that no separate classification has been demonstrated for the separate species, and in any event all of the claims (except for claim 16) would have to be examined because they are all generic. Once such a search has been conducted, the additional work to examine claims 1-15 would not impose too much of a burden on the examiner, i.e. would not constitute a "serious burden".

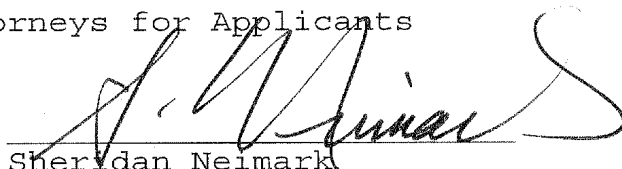
Accordingly, applicants respectfully request withdrawal of the election of species requirement.

Applicants now respectfully await the results of a first examination on the merits.

Respectfully submitted,

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